

Telecoms Access Review team
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Email: tar2026consultation.responses@ofcom.org.uk

12 June 2025

Dear Ofcom,

Telecoms Access Review (TAR) 2026-31

I am writing to you on behalf of Open Fibre Networks Limited (OFNL), part of the BUUK Infrastructure group of companies, to provide our views on Ofcom's March 2025 consultation [Promoting competition and investment in fibre networks: Telecoms Access Review 2026-31](#). This letter first provides an overview of OFNL, including our role in the fibre industry, and then goes on to present a summary of our views regarding the proposals presented in the TAR consultation. Appendix 1 also presents our more detailed response to question 4.3 in the consultation regarding the Openreach exchange exit programme. We would very much welcome the opportunity to discuss our views with you in more detail.

An introduction to BUUK and OFNL

BUUK Infrastructure (BUUK) is a leading UK multi-utility infrastructure investor, working across Great Britain and competing against incumbent utility companies. We have provided over three million utility connections and now serve customers across 48,000 discrete networks and six essential utilities. We can therefore provide a unique perspective on evolving utility and regulatory policy. We apply our considerable experience to the fibre industry via OFNL which has been providing gigabit ready full fibre broadband connections to the new build housing sector since 2008. Our fibre networks are often chosen by developers in preference to the solutions offered by the monopoly incumbent. We also operate a wholesale business, Open Fibre Networks (Wholesale) Limited (OFN(W)L).

A summary of our views on the proposals in the TAR 2026-31

We welcome publication of Ofcom's March 2025 consultation on the TAR and recognise the significant work that has gone into developing these proposals. We also welcome Ofcom's openness, emphasised in its meeting with INCA on 16th May 2025, to hearing industry views and amending its proposals where material issues and / or evidence is highlighted.

Having said that, we were disappointed that the consultation did not go further on exchange exit and that it did not include proposals to establish regulatory provisions to support new entrant CPs in their associated negotiations with Openreach. We note that the exchange exit programme has been driven by Openreach in pursuit of the cost savings it could attain from the consolidation of its existing portfolio of infrastructure. While we support the intent of the

programme, we do not think that these cost savings should be secured at the expense of new entrant providers who could be significantly disadvantaged by the changes to the established architecture of exchanges.

We recognise that most exchange closures will not take place until the early to mid-2030s meaning the bulk of the programme will commence after the TAR 2026-31 has concluded. However, in the interests of business certainty, we will need clarity long in advance of the start of the next TAR in 2031, on the availability of solutions to support the continued uninterrupted provision of services to our end customers once exchange closures commence en-masse. We are therefore strongly of the view that clear remedies and or paths to implementing these remedies should be included in this TAR review for implementation and use well in advance of actual bulk exchange closures commencing.

We note the Ofcom statement that “Openreach and providers are best placed to negotiate a commercial agreement on the terms of exchange exit” and that there are “enough incentives on all sides to reach an agreement”. While this may hold true in some circumstances, the specific architecture of our network means that these incentives are not present in our interactions with Openreach. Given that Ofcom also recognises that “BT has SMP in relevant markets and, absent regulation, there is a risk it may manage exchange exit in a way that harms competition”, we are surprised that it is not proposing to establish regulatory provisions that will level the playing field for new entrants like us. We note that this position is markedly different to the approach typically taken to the regulation of monopoly companies in other utility markets. We think there are clear principles that could be set to level the playing field on exchange exit and would welcome the opportunity to discuss this with you.

We were also disappointed that Ofcom did not act on, or in fact reference, previous issues we have raised around the continued affiliation of BT Consumer and Openreach. While we appreciate that Ofcom was unlikely to jump to the implementation of more extreme measures, we are surprised that it was unwilling to engage on these issues. In this respect, in our original TAR submission, we proposed two potential solutions that could be explored further. The first was to develop a cost benefit analysis on options for further separation, and the second was to implement arrangements that would provide greater visibility of the new build market and BT / Openreach performance.

The latter option would draw on similar initiatives that have been successfully deployed in the water and waste industry to enable Ofcom / industry to observe whether Openreach were demonstrating equivalence of inputs (EOI) with new entrants operating in this segment of the market. Monitoring could focus on indicators such as the time taken by Openreach to provide new entrant leased connectivity services / or the extent to which BT Consumer is responsive to invitations to sell their retail services to a new customer base via new entrant infrastructure and the business rationale it employs in evaluating these. We think that such an initiative would provide unambiguous evidence to the OMU on whether BT Consumer and Openreach are operating independently.

Finally, we note that we have been involved in developing the INCA TAR submission and that our views are aligned to this response. We agree with the issues raised regarding PIA, including concerns around the continued absence of EOI, the lack of engagement from

Openreach in specifying PIA products, and the limited term of PIA contracts. We also agree that Ofcom should adjust the brought-forward value of PIA assets to allow for the windfall holding gains from which Openreach benefited during the WFTMR.

I hope these comments are helpful. I would be very keen to discuss our response with you in more detail; please feel free to get in touch via keith.hutton@bu-uk.co.uk or 07970 730688.

Yours sincerely



Keith Hutton
BUUK Group Regulation Director

Responses to specific questions raised in the consultation.**Question 3.3: Do you agree with our proposed approach to exchange exit? Set out your reasons and supporting evidence.**

We note that Openreach initiated the exchange exit programme recognising the significant cost savings it could attain by reducing its current portfolio of buildings that are leased to house exchange equipment. This opportunity has arisen as changes in technology mean less space is needed to house newer assets and exchanges no longer need to be as closely located given the longer distances over which assets can communicate. In addition, a 2031 break in the leases agreed for most of its exchange buildings means that it can hand back exchanges it no longer needs without incurring additional costs. Given that Openreach commercial imperatives have been the sole driver of the programme and that changes to the architecture of exchanges will secure substantial cost savings for the company, we do not think that customers consuming its services should be disadvantaged by this initiative.

Proposed approach presented in the TAR.

In the TAR consultation Ofcom asserted that “Openreach and providers are best placed to negotiate a commercial agreement on the terms of exchange exit”. The regulator went on to state that there are “enough incentives on all sides to reach an agreement, which allows the benefits of exchange exit to be realised while also delivering good outcomes for competition and consumers”. While we recognise that this may hold true where Openreach customers have equipment installed in closing exchanges as they will have some bargaining power, similar incentives do not exist where Openreach customers do not have a physical presence within the exchange. In this respect, the construct of our network architecture is such that our assets terminate outside of relevant exchange buildings and are connected to our backhaul providers via an External Cablelink provided by Openreach. From discussions with Openreach, we understand that it is not planning to migrate External Cablelinks to enduring receiving exchanges and this places existing OFNL assets at a risk of becoming stranded. 12 OFNL sites will be affected by the priority exchange closure programme and a further 153 will be impacted once the full programme of exchange closures is rolled out.

Within this context, we were surprised to see that Ofcom is not proposing to establish any regulatory provisions to support Openreach customers who will be materially disadvantaged by the exchange exit programme. The absence of proposals in this area is particularly disappointing given Ofcom’s recognition that “BT has SMP in relevant markets and, absent regulation, there is a risk it may manage exchange exit in a way that harms competition”.

Proposed solution to address this issue.

We note that there are remedies that Openreach could adopt as part of its programme of exchange exit to effectively hold our investment whole, including:

- Installing a cabinet mounted Optical Distribution Frame (ODF), with connectivity to an enduring receiving exchange, outside of each of the exchanges that they plan to exit which would allow CPs to establish dark fibre connectivity to support existing assets.
- Reimbursing CPs for the costs they will face due to the necessary changes they will be required to make to their network architecture to allow for existing dark fibre installations to connect to an enduring receiving exchange.

For the reasons set out above, without regulation we do not think Openreach will have sufficient commercial incentives to enter meaningful negotiations with customers such as OFNL. Indeed, we sought to discuss these issues with Openreach as part of its recent

consultation regarding a 'draft commercial contract for Openreach's planned exchange exit programme', which was published on 13th November 2024. However, as Openreach considers us to be an indirect customer of these exchanges, they were unwilling to engage in detailed discussions with OFNL on this issue.

Recognising this market failure, we think Ofcom should establish a set of principles that Openreach will be expected / mandated to comply with as part of the exchange exit programme. These principles should not be detailed or set out the specific solutions that Openreach must deploy but should provide a framework for Openreach to operate within that will help to level the playing field between the former-monopoly and new entrants to the market. This is particularly important recognising the relative immaturity of the competitive market and that some new entrants, including OFNL, are direct competitors to the BT Group. While not exhaustive, we think that these principles could include the following.

- Openreach should publish a clear roadmap of exchange exits to provide transparency on its workplan and allow CPs to identify corresponding changes required on their networks.
- Openreach should engage in meaningful commercial negotiations with all customers affected by exchange closures (not just those with a physical presence in the exchange).
- Customers should be held whole by Openreach in cases where they procured services on the assumption that these would be available for the lifetime of their affected assets.
- Openreach should seek to optimise the use of its existing infrastructure e.g. duct space to avoid incurring unnecessary costs that will be passed on to its customers.
- Ofcom will function as arbiter where disputes arise on the terms of exchange exit.

We think a simple set of principles such as these would provide clarity to both Openreach and industry around Ofcom's expectations of how parties will engage and the behaviours they should demonstrate. This will help to facilitate the effective negotiation of commercial positions necessary to support successful completion of the exchange exit programme. We would welcome the opportunity to discuss this with Ofcom in more detail.